

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

DELBERT WILLIAMSON et al.,

Plaintiffs and Appellants,

v.

MAZDA MOTOR OF AMERICA, INC. et
al.,

Defendants and Respondents.

G038845

(Super. Ct. No. 04CC06494)

ORDER MODIFYING
OPINION AND DENYING
REHEARING; NO CHANGE IN
JUDGMENT

It is ordered that the opinion filed herein on October 22, 2008 be modified in the following particulars:

1. On page 9, in the first full paragraph starting with “The question presented” delete the phrase “in the center middle row” appearing in the third line and replace it with “at a rear inboard” so that the sentence reads:

“The question presented here is whether FMVSS 208 preempts the present lawsuit because a common law action seeking to hold defendants liable for installing a lap-only seatbelt at a rear inboard passenger seat conflicts with the safety standard.”

2. On page 12, in the first full paragraph starting with “More apropos to this case” delete the phrase “in the center” appearing on the third line and replace it with “at the inboard” so that the sentence reads:

“More apropos to this case, three other appellate decisions have applied *Geier*’s approach to hold defective design lawsuits challenging an automobile manufacturer’s use of a lap-only seatbelt at the inboard position of a passenger vehicle’s rear seat were preempted by FMVSS 208.”

3. On page 17, in the second sentence of the first full paragraph starting with “Plaintiffs allege defendants defectively” delete the phrase “the middle center” and replace it with “a rear inboard” so that the sentence reads:

“In effect, they seek to hold defendants liable for choosing the lap-only seatbelt option for a rear inboard seat position.”

4. On page 18, in the last sentence of the top paragraph starting with “federal courts . . .” delete the word “center” and replace it with “inboard” so that the sentence reads:

“Therefore, we conclude that to the extent plaintiffs contend defendants are liable for failing to install a lap/shoulder seatbelt in the minivan’s middle row inboard seat, their claim is barred by the version of FMVSS 208 in effect when defendants manufactured the minivan.”

The petition for rehearing is DENIED.

RYLAARSDAM, J.

WE CONCUR:

SILLS, P. J.

IKOLA, J.